

**PLANNING AND ZONING COMMISSION**  
**ADOPTED RESOLUTION**  
**November 10, 2015**

Application: Proposed Amendment to the Darien Zoning Map (COZM #1-2015)  
Special Permit Application #246-C/Site Plan #251-C  
Land Filling & Regrading Application #184-C/lot line adjustment  
Sun Homes Darien, LLC, 36, 42 (formerly 0), and 48 Wakemore Street

Street Address: 36, 42 (formerly 0), and 48 Wakemore Street  
Assessors Map #8 Lots #226/227 (36 Wakemore Street),  
#228/229 (0 or 42 Wakemore Street), and #230 (48 Wakemore Street)

Name and Address of Applicant: (and contract purchasers)	Sun Homes Darien LLC 3 Memorial Ave., Suite 301 Pawling, NY 12564
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Name and Address of: Applicant's Representative:	D. Bruce Hill., Esq. Law Office of Bruce Hill 30 Old King's Highway South Darien, CT 06820
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Activity Being Applied For: Proposing to: establish the Designed Community Residential (DCR) overlay zone on parcels totaling approximately 2.49+/- acres; and raze the existing three structures on those properties and construct ten new structures containing fourteen market rate units and three off-site below market-rate units at 269 Hoyt Street (two of which were proposed to be age-restricted); combine the three Wakemore Street parcels with Kensett I; and perform related site development activities.

Subject properties: The subject properties are located on the north side of Wakemore Street approximately 1,025 feet east of its intersection with Hoyt Street.

Zone: R-1/3 Zone

Dates of Public Hearing: September 15, 2015 continued to September 29, 2015  
Deliberations held: October 20, 2015

Time and Place: 8:00 P.M. Rooms 206 (9/29) & 119 (9/15) Town Hall

Publication of Hearing Notices  
Dates: September 4 & 11, 2015

Newspaper: Darien News

Date of Actions: November 10, 2015

**Proposed Amendment to the Darien Zoning Map (COZM #1-2015).** Proposing to establish the Designed Community Residential (DCR) overlay zone on parcels totaling approximately 2.5+/- acres. ADOPTED WITH AN EFFECTIVE DATE OF SUNDAY, DECEMBER 13, 2015 AT TWELVE NOON.

**Special Permit Application #246-C/Site Plan #251-C, Land Filling & Regrading Application #184-C/lot line adjustment.** Razing the existing three structures on three Wakemore Street properties and constructing ten new structures containing fourteen market rate units and three off-site below market-rate units at 269 Hoyt Street, and performing related site development activities. GRANTED WITH STIPULATIONS AND MODIFICATIONS WITH AN EFFECTIVE DATE OF SUNDAY, DECEMBER 13, 2015 AT 12:01 PM.

Scheduled Date of Publication of Action:  
November 20, 2015

Newspaper: Darien News

Following careful review of the submitted application materials and related analyses, the Commission finds:

The subject applications consist of two parts:

- A. **Zoning Map amendment.** Proposing to establish the Designed Community Residential (DCR) overlay zone on parcels totaling approximately 2.5 acres;
- B. **Special Permit Application #246-C/Site Plan #251-C, Land Filling & Regrading Application #184-C/lot line adjustment.** Razing the existing three structures on those properties and constructing ten new structures containing fourteen market rate units and three off-site affordable units to become Kensett II, and performing related site development activities. This aspect of the application includes a number of related issues, including, but not limited to the issue of how to address the issue of Section 580 of the Darien Zoning Regulations--**Inclusionary Zoning.** This includes the question of whether any inclusionary unit should be constructed on-site, off-site, or a fee-in-lieu payment required.

**A. ZONING MAP AMENDMENT**

1. The first part of this Resolution addresses the proposed zoning map amendment. The Zoning Map amendment submitted by the applicant is a prerequisite to the site plan submitted with the application.
2. The applicant proposes that the existing boundary of the Designed Community Residential (DCR) overlay be extended to incorporate the properties noted herein: Assessor's Map #8 as Lots #226/227 (36 Wakemore Street) which is 0.5 acres; #228/229 (42 formerly 0 Wakemore Street) which is 1.2 acres; and #230 (48 Wakemore Street), which is 0.8 acres. Those properties total 2.5 acres, and are now zoned R-1/3. They are contiguous with the existing Kensett development.
3. The DCR Zone is an overlay zone established in 2007 by the Planning and Zoning Commission which allows multi-family development subject to Site Plan and Special Permit approval. While other overlay zones in Darien allow condominiums, the DCR overlay zone allows condominiums of a larger size designed to provide an appealing alternative to single-family homes for those preferring a community oriented toward adult living with a design emphasizing flexibility, adaptability and minimum maintenance.

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4. The subject properties are adjacent to and to the south of Kensett (which is the original development approved by the Commission under the DCR regulations and is now sometimes referred to as Kensett Phase I). Kensett was formerly known as the Proccacini property on the north side of Wakemore Street and the east side of Hoyt Street. Kensett represents the only part of Darien which is currently within the DCR overlay zone. Kensett's Phase I project was approved in 2007 and it comprises approximately 15 +/- acres of land. The easterly portion of the site has considerable wetland area and is now protected by a conservation easement that prohibits further development or activity on that property.
5. The proposed amendment to the Zoning Map was referred to the Western Connecticut Council of Governments. Their August 31, 2015 comment was read aloud at the public hearing. The proposal was also referred to the Connecticut Department of Energy & Environmental Protection. In their e-mail dated September 2, 2015, they indicated that there were no inconsistencies with the proposal and the Connecticut Coastal Management Act.
6. Because the subject properties are adjacent to an existing DCR Zone to the north which has been developed as condominiums, and because the proposed Kensett II will utilize the same internal driveway to access the units and common facilities such as the clubhouse and pool and same infrastructure (sewer system, storm drainage, utilities, etc.) and because the property to the east is Town-owned property and inland wetlands, the Commission believes that it is an appropriate location to be rezoned to DCR.
7. The Commission finds that the proposed map amendment is consistent with the Town Plan of Conservation & Development, and thus extends the DCR Overlay Zone to include the three parcels on Wakemore Street. These will remain in the R-1/3 Zone, and will now have the DCR overlay zone.

NOW THEREFORE BE IT RESOLVED that based upon the review of all of the materials and information, the Commission, acting in its legislative capacity, hereby ADOPTS the ***Proposed Amendment to the Darien Zoning Map*** WITH AN EFFECTIVE DATE OF SUNDAY, DECEMBER 13, 2015 AT TWELVE NOON.

**B. SPECIAL PERMIT APPLICATION #246-C/SITE PLAN #251-C, LAND FILLING & REGRADING APPLICATION #184-C/LOT LINE ADJUSTMENT**

**BACKGROUND AND HISTORY**

1. On October 9, 2007, the Darien Planning & Zoning Commission approved Kensett Phase I. This included Proposed Amendments to the Zoning Map and Zoning Regulations, Site Plan Application #251, Special Permit Application #246, Land Filling & Regrading Application #184, Lot Line Adjustment #609 for Hoyt Street Partners, LLC, which rezoned and approved a Special Permit and Site Plan to construct 62 condominium units with associated recreation center, swimming pool and associated infrastructure, and perform related site development activities. The condominiums would be served by public water and sewer. A private, internal driveway, now known as Kensett Lane, was constructed from Wakemore Street to access the neighborhood. The project was situated on approximately 15+/- acres of land.
2. As part of that application in 2007, the applicant noted that the 62 condominium units were to be “age targeted” but not “age restricted”. However, the Commission understands that there are no restrictions on the age limits of who can live in and/or purchase these Phase I units. The Commission has relied upon and continues to rely upon the representations of the applicant that Kensett units will be “age targeted” for those ages 55 and above, both in their original sales and any subsequent sales of the Kensett Phase I condominiums as well as the proposed units in Kensett Phase II.

**THE FIRST APPLICATION FOR KENSETT PHASE II**

3. During a prior application in late 2014/early 2015 on Kensett Phase II, it became clear that the Kensett Phase I project was well underway, with many of the units complete, some units were occupied, and construction was ongoing. At those public hearings on Phase II (and the public hearings on the subject application as well) nearby property owners brought up their concerns and issues with Phase I. These concerns generally related to the following issues: density; age-targeting; stormwater management; safety issues regarding traffic and parking; and the two inclusionary zoning units proposed.
4. As part of that late 2014/early 2015 public hearing process, Attorney Bruce Hill, representing the applicant, said that the 2.5 acres of land to be added to the Kensett Phase I project would include a new conservation area of 6,317 square feet to be added to the open space of approximately 4.5 to 5 acres of the original Kensett Phase I project that is now set aside as conservation easement. He said that the total open space would satisfy the minimum open space requirements of the DCR Zone. The 2014 application proposed 18 new units, 16 were to be available at market rate, and would have been accessed via the internal driveway, Kensett Lane. The other two units were proposed to be ‘below market rate’ and would have been accessed directly from Wakemore Street.
5. The prior 2014/2015 application to modify the zoning map was rejected by the Commission by a vote of 3-3. Commission concerns related to the project included: 1) whether the new units would be age-targeted or age-restricted; 2) the safety of children waiting for the school bus near the corner of Hoyt Street and Wakemore Street; and 3) if the proposed below market rate units

complied with the inclusionary zoning regulation. The subject application attempts to address those issues and concerns.

#### THE SUBJECT APPLICATION FOR KENSETT PHASE II

6. On August 14, 2015, the subject application was filed in the Planning and Zoning Department. The current proposal involves the same 2.5 acres of land discussed in the previous application to be added to the Kensett project. Currently these properties consist of three building lots with a total of five dwelling units. The current proposal is that 14 new, market-rate units would be added within the development (the previous application proposed 16 market-rate units on site). The current application also provides that three deed restricted below market-rate units would be provided within an existing three family building on a separate parcel of land located on the south side of Wakemore Street at its southeast intersection with Hoyt Street (the previous application proposed two on-site below market rate units). The three off-site below market rate units that have been proposed are in an existing, legally non-conforming dwelling and would satisfy the requirement in Section 580 of the Zoning Regulations requiring at least 12% of the new units must be below market rate housing units.
7. At the public hearing, Attorney Hill said that **the below market rate units on the separate parcel of land would all be affordable as defined by the State Statutes** not just below market rate as required by Section 580. He said all of the new units in Kensett Phase II would be age targeted and would be on the smaller than the average size of existing units throughout the development. All of the new units would be accessible from Kensett Lane and would not be accessible from Wakemore Street except in cases of emergency.
8. Bill McGuinness of Sun Homes Darien, LLC confirmed that during the construction and development of Kensett II, the emergency driveway will no longer be used for construction access. Sun Homes will continue with the restoration of the wetlands in accordance with EPC approval. This includes removal of invasive species and planting of new, native vegetation.
9. The applicant is not seeking a density bonus or a more dense development than is allowed by the DCR Regulations. However, the Commission must make applicable findings under Section 1005 to approve the desired density of the project. The Commission is not obligated to approve the maximum allowed within the district; they can only approve a project for which they can make the requisite findings of Section 1005 of the Regulations.

#### AGE TARGETING

10. It was confirmed by both the applicant and the Commission that Kensett Phase I was proposed and approved as age targeted, but not age restricted. Testimony during the public hearing was that Kensett Phase I includes a mix of households, including families with children, including school age children. Attorney Hill said that a majority of the owners are empty nesters, but there is a mixture of types of owners and occupants.
11. Phase II is also proposed to be age-targeted, not age restricted. Discussion occurred during the public hearing process and during deliberations as to the purpose of the DCR zoning district and the efficacy of the age-targeting which was done as part of Kensett Phase I. In 2007,

representations were made regarding the size, design, and layout of the units and the fact that there were very limited on-site recreation areas appropriate for children.

12. As part of Kensett Phase II, no additional recreation facilities are proposed. The only recreation facilities are those which currently exist —the clubhouse, pool, and walking path through the conservation easement area. There is no playground or play field or separate bike riding or play area.
13. The subject application on page 3 of the submitted August 2015 application narrative notes that the applicants propose to implement the following standards in the design and marketing of Kensett Phase II:
  - Elevators will either be “roughed-in” or standard in each unit;
  - All units will have three bedrooms;
  - Design will comply with the Universal Design Guidelines (the AARP guidelines). These guidelines include wider doors and hallways, lower light switches; and one flush entry door;
  - No mention of schools in Kensett II marketing materials;
  - Additional page on the Kensett website including testimonials from current empty-nester owners;
  - Marketing materials include a commitment to modify any unit for a buyer’s mobility requirements.
14. With respect to the new units proposed in Kensett II, Mr. DiDonna asked about the description of an elevator “rough in.” Mr. McGuinness said that the design is to create a shaft built into the building so that an elevator can easily be installed in the future. If the elevator is not installed initially, the various levels of the shaft can be used as storage closets.
15. Mr. DiDonna suggested during the public hearing that as the applicant has represented they would change their marketing materials, they should also mention the new Mather Center and other amenities available to seniors in the community.
16. The proposed 14 new market-rate dwelling units will implement the Universal Design Guidelines so they can easily be modified for people with mobility issues. According to the applicant, this is one way that they are age targeting the units, so that people can easily accommodate the building to their lifestyle needs. Mr. McGuinness said that the Universal Design standards are incorporated in the development at little or no cost to the buyer so that the home can easily be modified as the mobility of the residents decreases and their need for assistance increases. He said that the Universal Design standards are built in at no additional cost, and the elevator shaft is designed in at no additional cost to the buyers, but the actual installation of an elevator is an option that the buyer would need to elect to pay for.

#### SAFETY OF CHILDREN WAITING FOR THE SCHOOL BUS

17. As part of the prior application, there was concern for the safety of children who now wait for the school bus in the mornings near the intersection of Wakemore Street/Hoyt Street and Kensett Lane. It was noted that vehicles line up along Wakemore Street to drop off children, which results in congestion near the Kensett/Wakemore Street intersection.

18. At the public hearing on the subject application it was again noted by neighbors that vehicles queue at the intersection of Hoyt Street and Wakemore Street waiting for the school bus. This constricts access to and from Wakemore Street. The Commission discussed the future possibility of the school bus to go through the Kensett site and then use the emergency egress driveway on the east end of the project to get to Wakemore Street. This would allow children to be picked up at the clubhouse where they could wait within the building and allow for several stops on Wakemore Street. This would eliminate the need to have vehicles parked on Wakemore Street near the intersection with Hoyt Street. Although this option was discussed, it was not approved by the Commission. Other potential solutions for this problem exist; however, they appear to be outside the control of the applicant, or on property which is not the subject of this application. For example, the Commission is not sure if a school bus would be allowed to go through the private internal driveway of Kensett. That decision would be solely up to the Board of Education, not the Planning & Zoning Commission.
19. This subject application proposes some improvements at the intersection of Hoyt Street and Wakemore Street to help create a safer bus stop area for the children in the neighborhood. These improvements include:
- The inclusion of a bus stop shelter near the intersection of Hoyt Street and Wakemore Street;
  - The inclusion of two parking spaces on the west side of the Kensett Lane private access road, near the intersection of Kensett Lane and Wakemore;
  - The enhancement of an existing parking area off of the south side of Wakemore Street on the 269 Hoyt Street property, which will allow for waiting vehicles to park off-street and not block Kensett Lane or Wakemore Street. None of the spaces within that 269 Hoyt Street lot will be assigned spots, but they will be available for people to use on a temporary basis while waiting for school buses to pick up or drop off children.
- The Commission acknowledges that there is no assurance that bus stop shelter or the off street parking areas will resolve the queuing of waiting vehicles. The provisions being established here are to improve the safety of those waiting for the school bus.
20. Mr. McGuinness said that there are eight proposed parking stalls on the site of the three-family house at the corner of Wakemore and Hoyt Street. Some of those parking stalls will be used by the residents in the three-family house and the other stalls can be used by parents waiting to drop off or pick up their children at the bus stop along Hoyt Street.
21. A question arose as to the appropriate size of the bus shelter, and whether it should be enclosed on one or more sides. The original proposal as part of this application is for a bus shelter that will include two benches and a roof, but no side walls.

#### INCLUSIONARY ZONING

22. This application has invoked Section 580—Inclusionary Zoning, as the applicant has proposed more than five dwelling units within the project. The applicant has proposed to comply with this regulation by creating and deed-restricting three new units within an existing, legally nonconforming, grandfathered three-family structure at 269 Hoyt Street (the southeast corner of Hoyt Street and Wakemore Street).

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23. In response to questions at the public hearing, it was noted that the property at 269 Hoyt Street is currently a three family house and will be converted to affordable housing. It will be rented and will not be condominiumized. Ms. Cameron said that she recommends that these affordable units not be age restricted because of the building's existing design and current tenants.
24. The owner/residents of the below market rate housing units at 269 Hoyt Street would not be members of the Kensett Homeowner's Association.
25. At the public hearing, Mr. Sini asked if all three of the below market rate units could be deed-restricted for those earning less than 80% of State Median Income (SMI), rather than restricting the income limits against Area Median Income (AMI), which is what is required in Section 580 of the Regulations. Kensett representatives agreed to do so.
26. The Commission finds that in this specific instance, rather than having the affordable units being constructed within Kensett, it is in the best interests to require three affordable units to be constructed off-site within the existing structure at 269 Hoyt Street pursuant to Section 580 of the Darien Zoning Regulations.

**STORMWATER MANAGEMENT**

27. The plans will incorporate the final engineering and storm water management that has been discussed by the engineers. Mr. Voigt asked if this included the issues regarding the southerly portion of Kensett I, and he was told that it did.
28. During the public hearing, a number of neighbors had concerns about storm water drainage. Some of their concerns regarding pipe size and location and elevations were incorporated during the construction process of Phase I, and these changes do not always facilitate the flow of drainage from the Wakemore Street area through the Kensett site. They were adamant that the drainage needs must be properly addressed and the existing problems must be corrected. Concerns about drainage need to be taken into account before the development is expanded.
29. It was acknowledged that during the construction in Kensett Phase I, a large pipe carrying water from Wakemore Street through the Kensett site was temporarily funneled down into several smaller pipes. During that time a rain storm occurred and the water that could not adequately pass through Kensett, backed up into the properties on Wakemore Street. That temporary constriction has been removed.
30. John Watson, Professional Engineer said that the goal of the stormwater management plan of Kensett II is to capture and treat and infiltrate as much of the storm water as possible on the site so that it will minimize the amount of runoff that leaves the site. He said that the drainage plan that they have formulated will mitigate the total volume of runoff and the peak rate of runoff from the proposed development. He said that part of their analysis assumes that the existing structures will be removed and no credit has been taken for existing impervious surfaces. Mr. Watson said that part of the plan includes using porous pavers for the driveway so that the storm water will be absorbed into the ground rather than runoff being created. He said storm water from the roofs of the building will be directed into infiltrators so that it can percolate into the ground. He said that the new Kensett Lane extension will be constructed of porous asphalt



so that runoff is not created. He said that storm water quality and quantity will be properly managed within proposed Kensett Phase II. During large storm events runoff from the impervious area will go into the stormwater detention pipes and be directed toward the storm water detention pond. This new stormwater management plan should reduce run-off from the site to neighboring properties.

31. The Commission notes the need for the applicant or property owner(s) to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners of the existing and proposed on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.

#### PARKING/TRAFFIC SAFETY

32. Currently, there are three curb cuts or street openings on Wakemore Street on the three subject properties—one serving 36 Wakemore Street, one serving 48 Wakemore Street, and one is the emergency access to Kensett Phase I, off of Wakemore Street. As part of this application, the three Wakemore Street curb cuts would be eliminated. The Kensett Phase I emergency access would remain.
33. Each of the 14 proposed units will include a two car garage. Five (5) additional parking spaces are proposed adjacent to the extension of Kensett Lane. During the public hearing, Bill McGuinness reviewed the revised site plan to note that two additional on-site parking spaces had been proposed near the 14 proposed new units.
34. As part of this proposal, the emergency access from the end of Kensett Lane, the private driveway through the development, will still go out to the eastern end of Wakemore Street.
35. A Traffic and Parking Assessment was submitted as part of the prior Kensett II application (which was ultimately not approved). The Town hired Michael Galante of Frederick P. Clark Associates to peer review that application. Mr. Galante's October 22, 2014 three-page letter made a number of recommendations. The traffic and parking information is still relevant and applicable to the pending application.
36. Oleg Starovoitov at 22 Wakemore Street said that he had submitted letters that had been signed from various neighbors in support of the project subject to certain conditions, including the "emergency only" use of the second driveway at the easterly end of Wakemore Street; that no construction traffic use Wakemore Street; that Wakemore Street be paved by November 26<sup>th</sup>; and that the gas line be installed in Wakemore Street as previously promised by the developer.
37. The parking requirement in the Darien Zoning Regulations is that each unit has 2.5 parking spaces. Parking in the driveway leading to the garage does not count as a required parking space. All parking must comply with the Darien Zoning Regulations in terms of number required, size, and backup aisle width.

#### GENERAL FINDINGS

38. The Darien Environmental Protection Commission (EPC) approved this project at their February 4, 2015 meeting as part of EPC #24-2014. That approval is hereby incorporated by reference. The Environmental Protection Commission (EPC) had approved the previous redevelopment of the area in question on these three Wakemore lots and since this project is very similar, the EPC did not need to take any further action. The fact that there is no additional site disturbance proposed in the upland review area beyond that previously approved was confirmed in a September 18, 2015 memo from Rich Jacobson, EPC officer.
39. During the public hearing process, it was represented that the proposed units in Kensett Phase II would have a similar design and look to Kensett Phase I.
40. The application has been reviewed by the Commission and, as amended herein, is in general compliance with the intent and purposes of Section 1000.
41. The proposal, as amended herein, conforms to the standards for approval as specified in Section 850 and Section 1005 (a) through (g) of the Darien Zoning Regulations.
42. The design, location, and specific details of the proposed use and site development, *as modified and granted herein*, will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
43. The elements of the Site Plan, submitted as part of the application, AS GRANTED WITH STIPULATIONS AND MODIFICATIONS HEREIN, accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that, effective December 13, 2015 at 12:01 PM (after the Zone map change becomes effective) Special Permit Application #246-C/Site Plan #251-C, Land Filling & Regrading Application #184-C/lot line adjustment for razing the existing three structures on those properties and constructing new structures containing 14 new market rate units and deed-restricting three off-site units at 269 Hoyt Street, and performing related site development activities are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction, stormwater management and site development activity shall be in accordance with the following plans as submitted to the Commission, as required to be revised herein:
  - Kensett II, by Insite Engineering, Surveying & Landscape Architecture, dated 08-13-15 and last revised 9-24-15, Sheets OP-1, SP-1 through SP-6, D-1 through D-5.
  - Kensett 289 Hoyt Street, by David Minno, dated 3/21/2014, Unit B, Sheet UB4-02; Unit G1, Sheet UG1-02; Unit G2, Sheet UG2-02, unit H1-L, Sheet UH1-L-02.Four floor plans were submitted, which represent the four possible floor plans to be used for the market-rate units in Kensett Phase II.

All drawings and plans must be revised to be coordinated and consistent with each other and this approval, and with the changes and responses outlined within the September 14, 2015 and September 24, 2015 two-page letters from Insite to Jeremy Ginsberg and Planning & Zoning Commission. All new 14 on-site market-rate units shall be age-targeted, as proposed by the applicant.

#### PLAN MODIFICATIONS REQUIRED

- B. The Commission requires that the following changes and modifications be made to the submitted plans in Condition A.
1. All units in Kensett Phase II shall be no greater than the Average Floor Area allowed within the DCR Zone—3,900 square feet (not including any finished space in the basement). The maximum Average Floor Area in all units, including Kensett I and Kensett II (including the below market rate units) shall not exceed 3,900 square feet.
  2. The number of required and provided on-site parking spaces as well as the units/net acre shall be shown in a revised Zoning District Table on Sheet 1 of the plans.
  3. Ensure that parking in Kensett Phase II has sufficient parking and associated parking dimensions as required by the Darien Zoning Regulations.
  4. All HVAC units shall be shown on the revised plans.
  5. Plans shall be coordinated with the EPC approval.
  6. Fire Marshal Robert Buch made comments on the submitted plans. The plans shall be revised to reflect his comments.
  7. Show the trench drain at top of Wakemore Street on the revised plans.
  8. As recommended in Mr. Galante's October 22, 2014 letter, the pavement type of the emergency access shall be noted on the plans. A No Standing sign shall be placed so that the area between the gate and the terminus of the emergency access drive is not blocked by vehicles.
  9. The bus shelter shall be as shown on the submitted plans and as presented at the public hearing. It shall be installed along with the sidewalk in that vicinity prior to November 10, 2016.
- C. The applicant has proposed that all of the condominium units in Phase II will be served by a private driveway (Kensett Lane) and not a street. Since there is no new public or private road construction and no extension of public utility facilities, the Commission waives the requirement for submission of a Performance Bond.
- D. A recommendation from engineer Joe Canas was for a videotaping of the existing drainage system to ensure that there are no blockages. That shall be accomplished and proof submitted for the record prior to the issuance of the first Certificate of Occupancy for Kensett Phase II.
- E. In order to ensure public safety, no construction vehicles shall use the easterly portion of Wakemore Street for access. The demolition of the three existing structures may be done through Wakemore Street, rather than driving the demolition debris out through the Kensett Phase I development. However, the access for new construction must occur through the Kensett I driveway.

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- F. As put forth by Attorney Bruce Hill on behalf of the applicant during the public hearing process, the applicant has made a commitment to re-pave Wakemore Street. That shall be accomplished prior to the issuance of the final Certificate of Occupancy for the tenth unit in Phase II, but no later than November 10, 2016. Since no construction activity will be using Wakemore Street for access, there is no need to worry about damaging the new pavement.

**PRIOR TO CONSTRUCTION**

- G. The conservation easement area shown on Sheet SP-2 of the plans shall be properly monumented by a licensed land surveyor for clear demarcation. This monumentation shall be put in place prior to the filing of the development and/or project plans in the Darien Land Records.
- H. Prior to preparing the final mylar, unit numbers and street addresses shall be verified with the Tax Assessor. Those should be included on the final mylar for filing.
- I. A construction phasing plan for Kensett II shall be submitted to the Planning and Zoning Department for review and action by the Planning and Zoning Director prior to the issuance of any Zoning or Building Permits. This will ensure the safety of residents who move into a portion of the Phase I or Phase II development during the construction process (before all of the units have been completed).
- J. By January 3, 2016 (within the next 60 days) and prior to the issuance of a Zoning or Building Permit for the proposed construction and prior to the start of any filling or regrading work, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. It shall coordinate and incorporate the maintenance agreement from Kensett Phase I. After approval by the two Directors, such plan shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of Kensett Phase II to maintain the on-site drainage facilities, and will alert future property owners of the on-site drainage facilities and the need to maintain said facilities to minimize impacts upon adjacent properties. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this approval.

**DURING CONSTRUCTION**

- K. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- L. During construction within Kensett, there will be no routine construction access from the eastern end of Wakemore Street into the project. It will only be used for emergency access.

- M. During the public hearing process, there was concern raised regarding construction start times. For Kensett Phase II, which is being constructed on a much smaller area than Kensett Phase I, and is in some cases, much closer to nearby residences on Wakemore Street, the Commission hereby requires that no work start earlier than 7:00 A.M.

#### AGE TARGETING

- N. As part of Kensett Phase II, no new recreation facilities are proposed. The only recreation facilities are those which are now part of Phase I—the clubhouse, pool, and walking path through the conservation easement area. The Commission stipulates that no playground structures or play areas other than the facilities currently at the Clubhouse are allowed in the entirety of the Kensett development.
- O. The subject application on page 3 of the August 2015 application narrative notes the applicants propose to implement the following standards in the design and marketing of Kensett Phase II:
- Elevators shall be standard in each unit;
  - All units will have no more than three bedrooms;
  - Design will comply with the Universal Design Guidelines (the AARP guidelines). These guidelines include wider doors and hallways, lower light switches; and one flush entry door;
  - No mention of schools in Kensett II marketing materials;
  - Additional page on the Kensett website including testimonials from current empty-nester owners;
  - Marketing materials include a commitment to modify any unit for a buyer's mobility requirements.
  - The Commission also hereby requires that as the applicant changes their marketing materials, they should also mention the new Mather Center and other amenities available to seniors in the community. That shall be accomplished by February 1, 2016.

#### DRAINAGE/STORMWATER MANAGEMENT

- P. The applicant shall incorporate the recommendations outlined in the January 15, 2015 Joe Canas letter. This includes, but is not limited to, adding a sump to all drain inlets. The applicant will install a trench drain at the top of Wakemore Street to catch surface water that comes from Camp Avenue and Allwood Road and direct it to the inlet structure at the end of Wakemore Street.
- Q. The applicant shall install the drainage system as shown on the submitted plans. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have negative impacts upon the adjacent properties. If such problems do become evident in the future, the Kensett Homeowner's Association shall be responsible for remedying the situation at the Homeowner's Association expense and as quickly as possible.
- R. It is incumbent upon the property owner(s) to maintain the installed drainage system, including, but not limited to, maintenance of the underground structures, (such as inspection and clean out once every 18 months or more frequently as needed). A long-term maintenance plan for drainage shall be submitted for the Planning and Zoning Commission file, and implemented by the property owner(s)/condominium association.

#### INCLUSIONARY ZONING REQUIREMENTS

- S. All three proposed units at 269 Hoyt Street shall be deed-restricted to those earning less than or equal to 80% of State Median Income (SMI). In this case, the Regulations only require two non-market-rate units, and allows one of them to be restricted to those earning up to 120% of Area Median Income (AMI). In this case, the applicant has proposed to go beyond that specific minimum requirement, and make the “below market rate” units “affordable” units. These three affordable units at 269 Hoyt Street shall be rental units. Associated deed restrictions shall be filed in the Darien Land Records prior to the issuance of a Zoning and Building Permit for the first market-rate unit for Kensett II, or by February 10, 2016, whichever comes first. These three affordable units shall not be age restricted.
- T. Restrictions on the below market rate/affordable housing units shall be filed in the Darien Land Records prior to the issuance of a Zoning or Building Permit for the first market-rate unit, or by February 10, 2016, whichever comes first. Copies of those restrictions, which should include the entity certifying annually the income verification of the tenants, would need to be submitted for the record in this matter.

#### GENERAL CONDITIONS

- U. All utilities serving this property shall be underground. These include, but are not limited to, electrical, telephone, cable TV, and all other wiring.
- V. A final “as-built” survey is hereby required for each phase to certify that the site improvements (including drainage and landscaping) are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the required drainage work has been properly completed in accordance with the approved plans. A certification shall be submitted regarding the final building height of the buildings as constructed.
- W. All site work around and related to a particular building, including but not limited to curbing, paved and striped parking spaces, drainage systems, safety signage, landscaping and other site improvements as shown on the approved plans shall be properly installed and completed prior to the use of and/or the issuance of a Certificate of Occupancy for that building.
- X. All landscaping shall be installed per the submitted Landscape Plan referenced in Condition A, above. Prior to implementation, any changes or substitutions must be reviewed and acted upon by the Planning and Zoning Commission. All required landscaping shall be installed around each unit prior to the issuance of a Certificate of Occupancy for that unit.
- Y. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This would include, but not be limited to: Demolition Permits and Sewer Disconnect Permits for the existing three buildings on Wakemore Street. Permits from the Fire Marshal will be needed to remove any existing underground oil tanks, to install any new oil tanks, and for removal of any above-ground or underground propane tanks. Zoning and Building Permits and Sewer Connection Permits will be needed for the new Kensett II units.

PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
PROPOSED AMENDMENT TO THE DARIEN ZONING MAP (COZM #1-2015), SPECIAL PERMIT APPLICATION #246-C/SITE  
PLAN #251-C, LAND FILLING & REGRADING APPLICATION #184-C/LOT LINE ADJUSTMENT  
SUN HOMES DARIEN, LLC, 36, 42 (FORMERLY 0), AND 48 WAKEMORE STREET  
NOVEMBER 10, 2015  
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- Z. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- AA. This permit shall be subject to the provisions of Sections 858, 1009 and 1025 of the Darien Zoning Regulations, including but not limited to implementation (i.e., the start of construction) of the approved plan within two years of this action (November 10, 2017). This approval may be extended as per Sections 858, 1009 and 1025.

All provisions and details of the plans, as required to be revised and modified herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void. All completed requirements and materials including the drainage maintenance plan and Notice of Drainage Maintenance Plan; and the combining of this acreage within the acreage of Kensett Phase I via the filing of a mylar in the Darien Land Records, and the filing of the deed restrictions for 269 Hoyt Street shall be completed and submitted to the Planning and Zoning Department within 90 days of this action, and prior to the issuance of Zoning and Building Permits for any new units or this approval shall become null and void.